

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TODD EVANS,

Plaintiff

V.

JAMES DZURENDA, et. al.,

Defendants

Case No.: 3:18-cv-00283-RCJ-WGC

Order

Re: ECF No. 8

Plaintiff has filed a motion requesting that an inmate law clerk be present for the hearing scheduled for May 24, 2019. He also requests to have his medical file for the hearing, and for review with the inmate law clerk prior to the hearing for a reasonable amount of time so Plaintiff may have the inmate law clerk's assistance looking at the records. He mentions various records that he seeks to review, including those concerning an eye doctor specialist, asthma specialist, hep-c specialist diagnosis, neurologist reports after surgery, MRI reports, LAB reports, and psychological testing. He also wants an order for testing the effects of suffering from blocked arteries in the area of various nerves. (ECF No. 8.)

The hearing on May 24, 2019, is to evaluate Plaintiff's claim of incompetence or inability to litigate this matter representing himself as asserted in his motion for guardian ad litem set forth in ECF Nos. 3, 5. Specifically, the court must determine whether there is a "substantial question" regarding Plaintiff's mental competence. *See Harris v. Mangum*, 863 F.3d 1133, 1138 (9th Cir. 2017) (citation omitted).

To that end, the court directed Plaintiff, as well as the Attorney General's Office to file any documentation that relates to Plaintiff's claim of incompetence or the inability to represent

1 himself, and in particular, medical or mental health records pertinent to Plaintiff's current level of
2 competence and medical status.

3 Plaintiff has filed various medical records that the court has reviewed in preparation for
4 the May 24, 2019 hearing. (*See* ECF No. 5-1, ECF No. 8 at 6-20.) The Attorney General's Office
5 filed ten pages of mental health records from 2017 under seal. (ECF No. 9.) The Attorney
6 General's Office did not file any medical records under seal, and it is not clear whether medical
7 records exist related to Plaintiff's brain tumor and treatment related to the tumor, including
8 surgery, that have not already been provided by Plaintiff. These records would be directly
9 relevant to Plaintiff's claim that his condition is affecting his competence and ability to proceed
10 pro se in this action.

11 The Attorney General's Office is ordered to file under seal any records concerning
12 Plaintiff's brain tumor, as discussed above, **BEFORE 5:00 p.m. on Thursday May 23, 2019.**

13 Plaintiff's motion to have the assistance of an inmate law clerk at the hearing on Friday
14 May 24, 2019, is **GRANTED**. The Attorney General's Office shall also ensure that Plaintiff *and*
15 his inmate law clerk assistant are given sufficient time to review any records filed under seal
16 related to the hearing in advance of the hearing (including those ordered to be filed by this
17 Order). Therefore, Plaintiff's motion is also **GRANTED** to the extent he asks to have the
18 assistance of the inmate law clerk in reviewing the records in preparation for the hearing.
19 Plaintiff's request to have access to the records during the hearing is likewise **GRANTED**.
20 Plaintiff's motion is **DENIED** in all other respects.

21 **IT IS SO ORDERED.**

22 Dated: May 22, 2019



William G. Cobb
United States Magistrate Judge